



ANDREW M. CUOMO
Governor

Homes and Community Renewal

JAMES S. RUBIN
Commissioner/CEO

Office of Housing Management Memorandum #2016 – B – 04

To: All Housing Companies Owners, Managing Agents and Site Managers

From: Robert Damico, Director
Office of Housing Management

Date: April 20, 2016

Subject: Access to Reduce Housing Barriers for New Yorkers with Criminal Convictions

DHCR regulations provide that all segments of the public will have an equal opportunity to apply for apartments and further provides that housing companies shall establish separate written criteria, policies and procedures for screening applicants for admission which are to be made available to such applicants and DHCR upon request.

It has come to DHCR's attention that some housing companies, by creating a rule that ex-offenders are not under any circumstances eligible for admission, are in effect not undertaking the kind of individualized screening contemplated by DHCR regulations.

In July 2014, Governor Andrew M. Cuomo created the New York State Council on Community Re-Entry and Reintegration to study and address obstacles formerly incarcerated people face upon re-entering society with respect to individuals seeking re-entry. In September 2015, the Governor accepted recommendations from the Council surrounding successful reintegration, one of which was the adoption of individualized guidance and review in New York-financed housing.

On April 4, 2016, the United States Department of Housing and Urban Development Office of General Counsel issued guidance on The Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate Related Transactions. It notes that the use of criminal records as the basis for a denial of housing, without an individualized assessment, may violate the Federal Fair Housing Act.

Accordingly, housing companies that screen residents/shareholders with a criminal conviction must make an individualized assessment of each applicant which includes factors such as (a) seriousness of the crime, (b) the time elapsed since the offense, (c) the age of the applicant at the time of the crime, (d) evidence of the applicant's rehabilitation and (e) whether they are an actual danger to their neighbors.

A housing company must establish standards for use in approving eligibility for admission of a household. Such standards are to include that the household will not, or does not, constitute:

1. a detriment to the health or safety of its neighbors and community;
2. a source of danger to the peaceful occupation of the other tenants;
3. a source of danger or cause of damage to residents, personnel, property or the premises; or
4. other lawful and non-discriminatory eligibility or continued occupancy criteria as may be established by the housing company.

In determining a household's eligibility for admission, the housing company may give consideration to a household member's criminal convictions that involved physical violence to persons or property or that adversely affected the health, safety and welfare of other people. The housing company may not reject an applicant based solely on the fact that a household member has such a conviction(s) but can conduct an individualized assessment of each household member who has such convictions, taking into account:

1. the time which has elapsed since the criminal conviction(s);
2. the age of the person at the time of the conviction(s);
3. the seriousness of the conviction(s); and
4. any information produced by the household member, or produced on his or her behalf, in regard to rehabilitation and good conduct, including, but not limited to, evidence of completion of treatment, rehabilitative programming, history of employment and tenancy, volunteer or community activity, and letters of reference from employers, landlords, community members or others who could speak to the person's conduct since the conviction.
5. If, after conducting the assessment, the housing company determines that the household is not eligible, it should be able to articulate its reasoning with specificity.

Further informational and training materials have been developed by DHCR. Training to help ensure your compliance with these standards is being scheduled. For any questions regarding the implementation, please contact Veda Ramos at (212) 480-7345 or Veda.Ramos@nyshcr.org.

A handwritten signature in black ink, appearing to read 'R. Damico', written over a horizontal line.

Robert Damico